

1 AN ACT in relation to taxation.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the Film
5 Production Services Tax Credit Act.

6 Section 5. Purpose. The General Assembly finds that the
7 Illinois economy is highly vulnerable to other states and
8 nations that have major financial incentive programs targeted
9 to the motion picture industry. Because of the incentive
10 programs of these competitor locations, Illinois must move
11 aggressively with new business development investment tools
12 so that Illinois is more competitive in site location
13 decision-making for film productions. In an increasingly
14 global economy, Illinois' long-term development will benefit
15 from rational, strategic use of State resources in support of
16 film production development and growth. It is the purpose of
17 this Act to preserve and expand the existing human
18 infrastructure for the motion picture industry in Illinois.
19 It shall be the policy of this State to promote and encourage
20 the training and hiring of Illinois residents who represent
21 the diversity of the Illinois population through the creation
22 and implementation of training, education, and recruitment
23 programs organized in cooperation with Illinois colleges and
24 universities, labor organizations, and the motion picture
25 industry.

26 Section 10. Definitions. As used in this Act:

27 "Accredited production" means a film, video, or
28 television production that has been certified by the
29 Department in which the aggregate Illinois labor expenditures
30 included in the cost of the production, in the period that

1 ends 12 months after the time principal filming or taping of
2 the production began, exceed \$100,000 for productions of 30
3 minutes or longer, or \$50,000 for productions of less than 30
4 minutes; but does not include a production that:

5 (1) is news, current events, or public programming,
6 or a program that includes weather or market reports;

7 (2) is a talk show;

8 (3) is a production in respect of a game,
9 questionnaire, or contest;

10 (4) is a sports event or activity;

11 (5) is a gala presentation or awards show;

12 (6) is a finished production that solicits funds;

13 (7) is a production produced by a film production
14 company if records, as required by 18 U.S.C. 2257, are to
15 be maintained by that film production company with
16 respect to any performer portrayed in that single media
17 or multimedia program; or

18 (8) is a production produced primarily for
19 industrial, corporate, or institutional purposes.

20 "Accredited production certificate" means a certificate
21 issued by the Department certifying that the production is an
22 accredited production that meets the guidelines of this Act.

23 "Applicant" means a taxpayer that is a film production
24 company that is operating or has operated an accredited
25 production located within the State of Illinois and that (i)
26 owns the copyright in the accredited production throughout
27 the Illinois production period or (ii) has contracted
28 directly with the owner of the copyright in the accredited
29 production or a person acting on behalf of the owner to
30 provide services for the production, where the owner of the
31 copyright is not an eligible production corporation.

32 "Credit" means the amount equal to 25% of the Illinois
33 labor expenditure approved by the Department. The applicant
34 is deemed to have paid, on its balance due day for the year,

1 an amount equal to 25% of its qualified Illinois labor
2 expenditure for the tax year.

3 "Department" means the Department of Commerce and
4 Community Affairs.

5 "Director" means the Director of Commerce and Community
6 Affairs.

7 "Illinois labor expenditure" means salary or wages paid
8 to employees of the applicant for services on the accredited
9 production;

10 To qualify as an Illinois labor expenditure, the
11 expenditure must be:

12 (1) Reasonable in the circumstances.

13 (2) Included in the federal income tax basis of the
14 property.

15 (3) Incurred by the applicant for services on or
16 after January 1, 2004.

17 (4) Incurred for the production stages of the
18 accredited production, from the final script stage to the
19 end of the post-production stage.

20 (5) Limited to the first \$25,000 of wages paid or
21 incurred to each employee of the production.

22 (6) Exclusive of the salary or wages paid to or
23 incurred for the 2 highest paid employees of the
24 production.

25 (7) Directly attributable to the accredited
26 production.

27 (8) Paid in the tax year for which the applicant is
28 claiming the credit or no later than 60 days after the
29 end of the tax year.

30 (9) Paid to persons resident in Illinois at the
31 time the payments were made.

32 (10) Paid for services rendered in Illinois.

33 Section 15. Powers of the Department. The Department, in

1 addition to those powers granted under the Civil
2 Administrative Code of Illinois, is granted and has all the
3 powers necessary or convenient to carry out and effectuate
4 the purposes and provisions of this Act, including, but not
5 limited to, power and authority to:

6 (a) Adopt rules deemed necessary and appropriate for the
7 administration of the tax credit program; establish forms for
8 applications, notifications, contracts, or any other
9 agreements; and accept applications at any time during the
10 year.

11 (b) Assist applicants pursuant to the provisions of this
12 Act to promote, foster, and support film production and its
13 related job creation or retention within the State.

14 (c) Gather information and conduct inquiries, in the
15 manner and by the methods as it deems desirable, including,
16 without limitation, gathering information with respect to
17 applicants for the purpose of making any designations or
18 certifications necessary or desirable or to gather
19 information to assist the Department with any recommendation
20 or guidance in the furtherance of the purposes of this Act,
21 including, but not limited to, information as to whether the
22 applicant participated in training, education, and
23 recruitment programs that are organized in cooperation with
24 Illinois colleges and universities, labor organizations, and
25 the motion picture industry, and are designed to promote and
26 encourage the training and hiring of Illinois residents who
27 represent the diversity of the Illinois population.

28 (d) Provide for sufficient personnel to permit
29 administration, staffing, operation, and related support
30 required to adequately discharge its duties and
31 responsibilities described in this Act from funds as may be
32 appropriated by the General Assembly for the administration
33 of this Act.

34 (e) Require applicants, upon written request, to issue

1 any necessary authorization to the appropriate federal,
2 state, or local authority for the release of information
3 concerning a project being considered under the provisions of
4 this Act, with the information requested to include, but not
5 be limited to, financial reports, returns, or records
6 relating to the applicant or the accredited production.

7 (f) Require that an applicant must at all times keep
8 proper books of record and account in accordance with
9 generally accepted accounting principles consistently
10 applied, with the books, records, or papers related to the
11 accredited production in the custody or control of the
12 taxpayer open for reasonable Department inspection and
13 audits, and including, without limitation, the making of
14 copies of the books, records, or papers, and the inspection
15 or appraisal of any of the assets of the applicant or the
16 accredited production.

17 (g) Take whatever actions are necessary or appropriate
18 to protect the State's interest in the event of bankruptcy,
19 default, foreclosure, or noncompliance with the terms and
20 conditions of financial assistance or participation required
21 under this Act, including the power to sell, dispose, lease,
22 or rent, upon terms and conditions determined by the Director
23 to be appropriate, real or personal property that the
24 Department may receive as a result of these actions.

25 Section 20. Tax credit awards. Subject to the conditions
26 set forth in this Act, an applicant is entitled to a credit
27 of 25% of the Illinois labor expenditure approved by the
28 Department under Section 40 of this Act.

29 Section 25. Application for certification of accredited
30 production. Any applicant proposing a film or television
31 production located or planned to be located in Illinois may
32 request an accredited production certificate by formal

1 application to the Department.

2 Section 30. Review of application for accredited
3 production certificate.

4 (a) In determining whether to issue an accredited
5 production certificate, the Department must determine that a
6 preponderance of the following conditions exist:

7 (1) The applicant's production intends to make the
8 expenditure in the State required for certification.

9 (2) The applicant's production is economically
10 sound and will benefit the people of the State of
11 Illinois by increasing opportunities for employment and
12 strengthen the economy of Illinois.

13 (3) The applicant's production application includes
14 a provision setting forth the percentage of minority
15 workers that the production company plans to employ,
16 subject to any applicable collective bargaining
17 agreements with a labor organization to which the
18 applicant is a signatory, to perform work on the
19 production. This provision should stress the importance
20 of hiring the percentage of minorities that is set out in
21 the application.

22 (4) The applicant's production application indicates
23 whether the applicant intends to participate in training,
24 education, and recruitment programs that are organized in
25 cooperation with Illinois colleges and universities,
26 labor organizations, and the motion picture industry and
27 are designed to promote and encourage the training and
28 hiring of Illinois residents who represent the diversity
29 of the Illinois population.

30 (5) That, if not for the credit, the applicant's
31 production would not occur in Illinois, which may be
32 demonstrated by any means including, but not limited to,
33 evidence that the applicant has multi-state or

1 international location options and could reasonably and
2 efficiently locate outside of the State, or demonstration
3 that at least one other state or nation is being
4 considered for the production, or evidence that the
5 receipt of the credit is a major factor in the
6 applicant's decision and that without the credit the
7 applicant likely would not create or retain jobs in
8 Illinois, or demonstration that receiving the credit is
9 essential to the applicant's decision to create or retain
10 new jobs in the State.

11 (6) Awarding the credit will result in an overall
12 positive impact to the State, as determined by the
13 Department using the best available data.

14 (b) If any of the provisions in this Section conflict
15 with any existing collective bargaining agreements, the terms
16 and conditions of those collective bargaining agreements
17 shall control.

18 Section 35. Issuance of Tax Credit Certificate.

19 (a) In order to qualify for a tax credit under this Act,
20 an applicant must file an application, on forms prescribed by
21 the Department, providing information necessary to calculate
22 the tax credit, and any additional information as required by
23 the Department.

24 (b) Upon satisfactory review of the application, the
25 Department shall issue a Tax Credit Certificate stating the
26 amount of the tax credit to which the applicant is entitled.

27 Section 40. Amount and duration of the credit. The amount
28 of the credit awarded under this Act is based on the amount
29 of the Illinois labor expenditure approved by the Department
30 for the production. The duration of the credit may not exceed
31 one taxable year.

1 Section 45. Evaluation of tax credit program. The
2 Department shall evaluate the tax credit program. The
3 evaluation must include an assessment of the effectiveness of
4 the program in creating and retaining new jobs in Illinois
5 and of the revenue impact of the program, and may include a
6 review of the practices and experiences of other states or
7 nations with similar programs. Upon completion of this
8 evaluation, the Department shall determine the overall
9 success of the program, and may make a recommendation to
10 extend, modify, or not extend the program based on this
11 evaluation.

12 Section 50. Program terms and conditions. Any documentary
13 materials or data made available or received by any agent or
14 employee of the Department are confidential and are not
15 public records to the extent that the materials or data
16 consist of commercial or financial information regarding the
17 operation of the production of the applicant for or recipient
18 of any tax credit under this Act.

19 Section 90. Repeal. This Act is repealed 1 year after its
20 effective date.

21 Section 905. The Illinois Income Tax Act is amended by
22 adding Section 213 as follows:

23 (35 ILCS 5/213 new)

24 Sec. 213. Film production services credit. For tax years
25 beginning on or after January 1, 2004, a taxpayer who has
26 been awarded a tax credit under the Film Production Services
27 Tax Credit Act is entitled to a credit against the taxes
28 imposed under subsections (a) and (b) of Section 201 of this
29 Act in an amount determined by the Department of Commerce and
30 Community Affairs under the Film Production Services Tax

1 Credit Act. If the taxpayer is a partnership or Subchapter S
2 corporation, the credit is allowed to the partners or
3 shareholders in accordance with the determination of income
4 and distributive share of income under Sections 702 and 704
5 and Subchapter S of the Internal Revenue Code. The
6 Department, in cooperation with the Department of Commerce
7 and Community Affairs, must prescribe rules to enforce and
8 administer the provisions of this Section. This Section is
9 exempt from the provisions of Section 250 of this Act.

10 The credit may not be carried forward or back. In no
11 event shall a credit under this Section reduce the taxpayer's
12 liability to less than zero.

13 Section 999. Effective date. This Act takes effect on
14 January 1, 2004.